

RECEIVED  
CENTRAL FAX CENTER

Print Form

JAN 16 2007

Doc Code: AP.PRE.REQ

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO/SB/33 (07-05)  
Approved for use through xx/xx/200x. OMB 0651-00xx  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional) SIG000053	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>1/16/2007</u> Signature <u>Diane Hudson</u> Typed or printed name <u>Diane Hudson</u>		Application Number <u>09/705,105</u>	Filed <u>11/2/2000</u>
		First Named Inventor <u>Bogard</u>	
		Art Unit <u>2615</u>	Examiner <u>Flanders, Andrew</u>
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.  This request is being filed with a notice of appeal.  The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>33,534</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 <u>                    </u>		<u>/Timothy W Markison/ reg no 33,534</u> Signature <u>Timothy W Markison</u> Typed or printed name <u>808 665-1725</u> Telephone number <u>1/9/07</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input checked="" type="checkbox"/> Total of <u>1</u> forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS, SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

RECEIVED  
CENTRAL FAX CENTER

JAN 16 2007

PATENT APPLICATION  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICEApplicant: Bogard  
Serial No. 09/705,105  
Filing Date: 11/02/00Examiner: Flanders, Andrew  
Art Group: 2644  
Docket No: SIG000053  
Title: METHOD AND APPARATUS FOR PROCESSING CONTENT DATA

Date: 1/9/07

Pre-Appeal Brief Request for Review

1. In the Final Office Action dated 9/14/06, the Examiner reasserted the election/restriction requirement, rejected claims 1-4, 6, 9, 10, 12, 14, 15, 17, 19, 21, 24, 26, 28, 29, 31, 33, 35, 38, 40, 42, 43, and 45 under 35 USC § 103 (a) as being unpatentable over Yokozawa (U.S. Patent No. 5,420,739) in view of Allen (U.S. Patent No. 4,442,540), and rejected claims 8, 11, 16, 23, 25, 30, 37, 39, and 44 under 35 USC § 103 (a) as being unpatentable over Yokozawa in view of Allen and in further view of Barclay (U.S. Patent No. 6,850,555). Applicant respectfully believes that there is a clear deficiency in the prima facie case in support of this rejection and requests review of the allowability of claims pursuant to the Pre-Appeal Brief Pilot Program.

2. With respect to the election/restriction requirement, the Examiner grouped the claims into six classifications:

- I. Claims 1-4, 13, 14, 18, 19, 27-29, 32, 33, 41-43, and 46;
- II. Claims 5, 9, 20, and 34;
- III. Claims 6, 10, 15, 21, 24, 35, and 38;
- IV. Claims 11, 16, 25, 30, 39, and 44;
- V. Claims 12, 17, 26, 31, 40, and 45;
- VI. Claims 7, 8, 22, 23, 36, and 37.

In the present patent application claims 1, 14, 19, 28, 33, and 42 are independent claims and all in group I and claims 15-18 properly depend from claim 14, claims 20-27 properly depend from claim 19, claims 29-32 properly depend from claim 28, claims 34-41 properly depend from claim 33, and claims 43-46 properly depend from claim 42. In

accordance with 35 USC 112, fourth paragraph, dependent claims 2-13, 15-18, 20-27, 29-32, 34-41, and 43-46 provide additional limitations to the at least one embodiment covered by independent claims 1, 14, 19, 28, 33, and 42, respectively. As such, independent claims 1, 14, 19, 28, 33, and 42 and dependent claims 2-13, 15-18, 20-27, 29-32, 34-41, and 43-46 are providing varying breadth and/or scope of definition of the at least one disclosed embodiment.

Thus, in accordance with MPEP 806.03 claims 5, 7, 20, 22, 34, 36, 13, 18, 27, 32, 41, and 46 should not be subject to restriction since they are different definitions of the same disclosed subject matter, varying in breadth or scope of definition.

3. Claims 1-4, 6, 9, 10, 12, 14, 15, 17, 19, 21, 24, 26, 28, 29, 31, 33, 35, 38, 40, 42, 43, and 45 have been rejected under 35 USC § 103 (a) as being unpatentable over Yokozawa in view of Allen.

Claim 1 claims a device for processing content data that includes data processing circuitry, a content processing module, and a transceiving module. The data processing circuitry is operably coupled to process data received from an external content display device to produce presentation information. The content processing module is operably coupled to process content data for presentation on the external content display device based on the presentation information. The transceiving module is operably coupled to the data processing circuitry and the content processing module, wherein the transceiving module separates modulated data from the content data, wherein the transceiving module retrieves the data from the modulated data, and wherein the transceiving module introduces the content data into a channel coupling the device to the external content display device. [emphasis added]

Yokozawa teaches at column 4, lines 39-49, that:

FIG. 1 a portable audio device, shown generally at 200, such as a CD player or tape recorder, has a main unit 210 containing electrical and mechanical components (not shown) for playing tapes or CDs. A remote control unit 214 controls main unit 210. An audio/control cable 215 feeds control signals from

remote control unit 214 to main unit 210. Audio signals from main unit 210 are fed through audio/control cable 215, through remote control unit 214, to an earphone set 110. Earphone set 110 is connectable to, and disconnectable from, remote control unit 214 by a first plug 23. [emphasis added]

As such, Yokozawa is teaching a portable audio device that includes three components: the remote control unit 214, the main unit 210, and the earphone set 110, where the remote control unit provides control signals to the main unit and where the earphone set receives audio signals from the main unit. Yokozawa does not, however, teach or suggest processing data received from an external content display device to produce presentation information and processing content data for presentation on the external content display device based on the presentation information as is claimed in claim 1.

Allen teaches, at column 3, lines 26-42, that:

FIG. 1 discloses the speech interpolation apparatus of this invention in block diagram form. The apparatus comprises an analog-to-digital (A/D) converter 1 for changing the speech signal from analog to digital form; buffers 2 and 6 for holding the digital speech and data signals, respectively; processor 5 for generating control signals in response to both speech and data signals; modem 7 for modulating the data signal above the speech signal; time-varying complementary high-pass, low-pass (HP-LP) filter 3 for operating in response to control signals from processor 5 on speech and data signals, respectively, from buffer 2 and modem 7; and digital-to-analog (D/A) converter 4 for changing the digital speech and data signals into analog form with the speech signal in a lower segment of the channel bandwidth and with the data signal in an upper segment thereof. [emphasis added]

Allen further teaches, at column 4, lines 23-29, that:

This invention can be characterized as a variable frequency interpolation system in which not only silent intervals in the time domain are used to advantage but also where the speech signal occupies less than full bandwidth in the frequency domain data are inserted into momentarily unused and expandable frequency space above that needed for the speech signal alone. [emphasis added]

As such, Allen is teaching a system for limiting the bandwidth of speech signals and determining silent intervals of the speech signals to insert data signals. Allen does not, however, teach separating modulated data from the content data, retrieving the data

from the modulated data, and introducing the content data into a channel coupling the device to the external content display device as is claimed in claim 1.

Thus, combining the teachings of Yokozawa (i.e., a portable audio device that includes three components: the remote control unit 214, the main unit 210, and the earphone set 110, where the remote control unit provides controls signals to the main unit and where the earphone set receives audio signals from the main unit) with the teachings of Allen (i.e., a system for limiting the bandwidth of speech signals and determining silent intervals of the speech signals to insert data signals) does not render claim 1 obvious. The applicant believes that the reasons that distinguish claim 1 over the present rejection are applicable in distinguishing claims 2-4, 6, 9, 10, 12, 14, 15, 17, 19, 21, 24, 26, 28, 29, 31, 33, 35, 38, 40, 42, 43, and 45 over the same rejection.

4. Claims 8, 11, 16, 23, 25, 30, 37, 39, and 44 have been rejected under 35 USC § 103 (a) as being unpatentable over Yokozawa in view of Allen and in further view of Barclay. Each of these claims is dependent upon one of the independent claims 1, 14, 19, 28, 33, and 42, which have been shown to overcome the preceding rejection, thus, the further combination of the Barclay with Yokozawa and Allen fails to render the present claims obvious.

RESPECTFULLY SUBMITTED,

By: /Timothy W. Markison reg. 33,534/

Timothy W. Markison

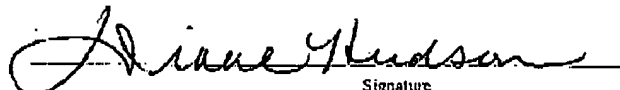
Phone: (808) 665-1725

Fax No. (808) 665-1728

CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being transmitted by facsimile to fax (571) 273-8300 addressed to: Commissioner of Patents and Trademarks, Alexandria, Virginia 22313, on the date below:

1/16/2007  
Date

  
Signature